Dr. A. G. Menon.—The appreciation would be full, if the other portions are also published.

A query regarding the Member for Vellarappalli.

Mr. A. B. Salem.—Sir, I raise a point of order to know whether Mr. O. R. Chummar, the Member for Vellarappalli, continues to be a Member of this House. I ask it for two reasons. We find that he is absent in his chair, and I understand that he says that he does not want to come here. I, therefore, think it would be a point of honour for him, if he continues to be a Member. It has been ruled under the rules that a Member, if he accepts a post under the Government, is no longer a Member. Of course, this point was raised in the case of Mr. K. S. Rama Ayyar. It was ruled that he is still a Member, because he held a post only in the Court of Wards. That does not hold in the case of Mr. Chummar, because he is holding a post under the Government, and so you will be pleased to give a ruling on this point. I suppose that matter rests with the Diwan. The Regulation itself provides for it.

President.—Is it for the Government to decide or the President to decide? I think it is the Government that is to decide, and papers on the subject have come to me as Diwan and not as President.

Mr. A. B. Salem.— " If a Member accepts a post in the service of our Government, his seat in the Council shall become vacant." You are the head of the Government, and if you say that he is a Government servant, there is an end of the matter.

President.—I cannot say that as the President. But the head of the Government can do it.

Mr. A. B. Salem.—It comes within the jurisdiction of the President to expel a Member from the House, if he has accepted office under the Government.

President.—You see that the matter has not been disposed of finally, and the matter is still under consideration. In the course of my examinaion of the matter, it came to my notice that in Travancore a non-official Member who was appointed as an official was allowed to continue as Member of the Council.

Mr. K. T. Mathew.—The point under consideration is whether that seat is vacant or not. If it is not vacant, I think he can sit in the Council.

President.—He is a Member till he is asked to quit.

The Bill to amend the Cochin Court of Wards Regulation.

Mr. K. Achyuta Menon.—Sir, I beg to move the Bill to amend the Cochin Court of Wards Regulation be taken into consideration.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. T. K. Krishna Menon.—Sir, I beg to second it.

Mr. N. Padmanabha Menon.—Sir, I oppose the motion on the ground that it is absolutely necessary to hear what the creditors of the particular estate involved in the case have to say in the matter. This motion is now made without making a reference of the Bill to a Select Committee. It will be plain that the creditors are the people who are interested in the matter. So I oppose the motion, and propose that the matter may be taken up at the next meeting of the session.

President.—Is it an adjournment motion?

Mr. N. Padmanabha Menon.—I cannot move an adjournment motion. I only oppose the motion *in toto*.

President.—If your opposition is given weight to, this Bill would not come up for discussion at this sitting.

Mr. N. Padmanabha Menon.—No, Sir. This time it will not come up.

President.—The motion is that the Bill be taken into consideration, and any Member may oppose the motion, and since that is opposed, we have to discuss the motion.

Mr. K. S. Rama Ayyar.—Sir, the Court of Wards Regulation was passed, and a Court of Wards was constituted for the preservation and protection of the person and property of incapacitated persons. The Regulation itself was adapted from the British Act, but then, a mistake was committed, by which the provisions of a section or two were left out. These provisions related to the manner in which the debts of heavily involved estates should be liquidated. By the amendment now introduced, the Government simply want to add the provisions of these sections to the Regulation. In such a simple matter as this, I was wondering why there was so much heat at the first reading of the Bill. Once you make up your mind to protect some people, and preserve their estates from ruin, and make a law to give it a legal sanction, and authorise some people to work the provisions of the law, it then becomes your business to provide for all the necessary facilities for their work. There is no use shrinking back, when the necessity arises. What is the amendment but a provision for some such facilities? The Official Receiver appointed under the Insolvency Regulation and the Official Liquidator engaged under the Companies Regulation have all these powers, and they are provided with all these facilities. But there the properties are under the Civil Court, and the Receiver and the Liquidator, therefore, work under the orders of the Civil Court. Here the assets are under a separate Court, called the Court of Wards, which is constituted by law for a definite purpose, and it is only right that the Tahsildar, or whoever it may be, that is

LIBRARY ARCHIVES Kerala Legislative Assembly

invested with the powers of liquidation, should also have similar powers and similar facilities, and as the properties are under the Court of Wards, the officer must work under the orders of that Court. Where is the want of justification, where is the want of propriety, where is the necessity for opposition in adding those provisions to the existing Regulation? If you coolly reflect for a while, you can very easily understand that, without the provisions contemplated in the amendment, the Court of Wards Regulation will be unworkable, so far as involved estates are concerned. A careful reading of Chapter V of the existing Regulation down to the end of section 38 will convince even a layman that some necessary provision that ought to have come in after section 38 is omitted. It is this provision that is being added. There is nothing strange or extraordinary in the Government having brought up this measure. There was no estate under the management of the Court of Wards nor was any estate contemplated to be taken over for management, when the Regulation was passed. The Regulation was passed for the purpose of protection. Four years after the passing of the Regulation, one estate was taken up. Unfortunately, this estate happened to be a heavily involved estate. It is not always that the Court of Wards can get for their management estates free from debt and in good order. Such a contingency was anticipated, when they passed the Act in British India; they thought that provision for facilities for the liquidation of debts was necessary, and they had certain sections in their Act providing for these facilities. Here the Government was, excuse me, Sir, a little short-sighted, when they made the Regulation, and somehow left out some necessary sections, and they are now sought to be added. Now, there is one estate or two estates under the Court of Wards, and it seems likely a few more will come in, in the course of a year or two. There is no meaning in making prominent mention of the name of the owner of this estate or of that estate, as the amendment, when passed, will be on the statute book, until it is repealed, and the benefits of it will go to each and every estate that comes within the management of the Court of Wards. And why should the Legislative Council be sorry, if the estates now under management get the benefit of the amendment? I do not think we can have any motive to be particularly ill-disposed to the owners of the estates now under management. I, therefore, support the motion that the Amendment Bill may be taken up for consideration.

Mr. M. Krishna Menon.—I beg to support the motion for opposition. I do not agree with the Hon'ble Member for Trippunittura that our legislators were short-sighted in enacting

LIBRARY ARCHIVES Kerala Legislative Assembly

the Court of Wards Regulation. On the other hand, I say they were long sighted. They did not want to get this provision incorporated, because they were reluctant to give to the executive the power that ought to be administered by Civil Courts. In British India, they have not yet separated the Executive from the Judicial. Are we to follow that? Long before, we have separated our executive and judicial functions. We have got separate officers. In British India, they are the same even now. So our legislators, when they drafted this Regulation, properly thought that those provisions should not be incorporated in the Court of Wards Regulation, because it comes naturally in the purview of the Civil Courts. Now, by this amendment, those powers are taken away from the Civil Courts, and handed over to certain executive authorities. I say it is not correct. The proper person to administer between the debtor and the creditor in the way the debt ought to be discharged is a Civil Court, and the Court of Wards representing the estate can appear before the Civil Court, and can have their grievances redressed, instead of being masters themselves. With regard to this particular estate, we had enough and more. Even to-day, the Court of Wards cannot assure this House that they are in a position to pay the creditors.

President.—Attempts are being made to pay the creditors.

Mr. M. Krishna Menon.—Attempts are made only in this way, that creditors should not be allowed to come and ask.

President.—Serious attempts are made to raise a loan by the Court of Wards.

Mr. M. Krishna Menon.—If they can give an assurance that they will clear the debts within 6 months, every creditor will wait.

President.—If the loan is successfully raised, they will pay.

Mr. M. Krishna Menon.—So many *ifs* and *buts* come in. That is the difficulty. Further, the owner refuses to hand over all the properties in his name to the Court of Wards.

Dr. A. G. Menon.—May I know whether this is intended for this particular case or a general case?

President.—These amendments are made with regard to the estate under the management of the Court of Wards at present.

Dr. A. G. Menon.—Is it for one particular estate?

President.—This is for the general benefit. But with reference to this particular estate, he advances these arguments.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. M. Krishna Menon.—The estate is heavily involved and the creditors who can get something out of it, will not be able to realise anything by now introducing this amendment into the Court of Wards Regulation. They will be out of Court in the Civil Courts, and they will have to apply to the executive officers who are the persons to pay. If this Bill is passed, the Court of Wards become the debtors. The civil Judges make no difference between a debtor and the Government, in redressing the grievances. They look through the evidence and decide who is to pay. I say our legislators were long-sighted by not incorporating this provision in the Court of Wards Regulation. It cannot be said that they, when copying right through these passages, omitted those provisions without any object. The omission of those provisions must be with a particular object. We have progressed in this matter in not giving powers to the Executive, where civil Judges can administer the function. Now, by allowing this Amendment Regulation, we are taking back the power entrusted to Civil Courts, and handing it over again to the executive authorities.

President.—How can the management be efficiently carried on, if the properties are put to sale at once.

Mr. M. Krishna Menon.—The Court of Wards may represent these matters to Civil Courts, and may become a party in the Civil Court. Between man and man, the Civil Courts make no difference. If these provisions are incorporated in the Regulation, the defendant becomes the plaintiff, and the plaintiff becomes the defendant.

President.—If this Regulation is not passed, the creditors will put the properties to sale.

Mr. M. Krishna Menon.—On the assurance from the Court of Wards to a Civil Court that the debts would be cleared within a certain time, adjournments of sales will be given.

President.—Only what is actually possible can be done.

Mr. M. Krishna Menon.—The creditors are willing to wait even for one year. At the end, if the creditors are not paid the amounts due to them, they will have to do everything over again. So I oppose the motion.

Mr. A. Sankara Puduval.—I would also oppose this motion, that the Bill be taken into consideration. In answer to some of the interpellations of to-day, the Government have been pleased to answer that 10 months have elapsed from the date of assumption of the estate. And even as it is, the Government is unable to say whether the assets would be sufficient enough to liquidate the liabilities of the estate. Let us see answer to question 238 of Mr. George Chakyamuri:—

LIBRARY ARCHIVES Kerala Legislative Assembly

"Will the Government be pleased to state.—(a) whether they can assure this House from their experience of the estate of Mr. Sankaranainan Pillai, that the liabilities of the estate do not exceed the assets;

(b) whether they are able to liquidate the debt of the estate within a reasonable time;

(c) if so, in what time and in what manner;

(d) if, with reference to sub-divisions (a) and (c), no definite answers can be given, will they be pleased to abandon the management of the estate so that public interest contemplated in section 17 of the Court of Wards Regulation may not be endangered ?

"**Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.**—(a) Yes.

(b) Yes.

(c) It is too early at this stage to give any definite answer.

(d) The management was assumed chiefly to safeguard the interests of the estate and of all those who had claims on the estate. The necessity for abandoning it has not yet arisen."

I venture to say that this answer really evades the question what the Government was expecting to do, when they assumed management.

"If, with reference to sub divisions (a) and (c), no definite answers can be given, will the Government be pleased to abandon the management of the estate?" The answer to this question vouchsafed by the Government is discourteous. The courteous answer would have been "yes" or "no." The Government say that the necessity for the abandonment does not arise. That is to say, the Government wants to experiment as to whether, after a trial of 10 months more, the Government should give it up or not. Where is the necessity for the assumption of the estate—a hopelessly involved estate ? In a reply to a previous interpellation, the Government say that it has come into possession of information that Mr. Sankaranainan Pillai has not been able to play fair and square with the Government. In an answer to an interpellation, the Government say that, with regard to some of his property situated elsewhere, this Mr. Sankaranainan Pillai has been leasing out properties in the name of his servants and his favoured few, probably to prevent the estate from falling into the hands of the Court of Wards. A series of answers to interpellations 234 to 242 disclose a very highly unsatisfactory state of affairs, and the conduct of this person whom the Government wanted to protect has been, to my thinking, absolutely blameworthy.

President.—We are not protecting Mr Sankaranainan Pillai but the minor.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. A. Sankara Puduval.—In answer to interpellation No. 234, the Government say that they are protecting the estate of Mr. Sankaranainan Pillai and the minor. The Government does not say that they are protecting the minor.

President.—If there was not that minor, the Government would not have stepped in. Mr. Sankaranainan Pillai's estate is also mingled with it.

Mr. A. Sankara Puduval.—When the point arose in the last sitting of the Council, (vide the Official Report, Volume III, Part 1, page 30) the Member for Vyttila remarked that "not a single pie has been paid to any of the creditors up-to-date", and the President was pleased to observe that the Court of Wards itself feels that it has assumed management of an estate which cannot be managed.

The answers given to the interpellations 234 to 242 show a still more deplorable and unsatisfactory state of affairs. I ask why it should not be given up in fairness. Why should the Government slur the House by saying that the necessity for abandoning the idea has not arisen? I consider it a serious slur on the House, when the Diwan-President, representing the Government said, on page 30, that the matter was rather a very unsatisfactory one, and that the Court of Wards itself feels that it has assumed an estate which cannot be managed. Why should it did not be given up? The Regulation has also given ample power to the Government to withdraw. The answer to interpellations 234 to 242 distinctly discloses a state of affairs detrimental to the public at large. The estate has been managed without any remuneration whatsoever, and the valuable time of the Court of Wards might have been spent for other valuable purposes. To prevent a wastage of unremunerated time and money, it is high time that the Government should give up the management and not stick to giving answers which more or less cast a slur on the House. Now, I find that on page 22 of the Official Report, that the Court of Wards had applied to the Government for a loan of 3 lakhs of rupees. The Government was disinclined to grant the loan. Even now, the loan has not been paid. Why should there be any further waiting? Why should there be any undue solicitude in favour of this minor and major whose conduct has been far from satisfactory?

No further information is solicited in view of the answers to the interpellations noted in pages 14 to 16 of to-day's Questions and Answers. On a previous occasion, the Government was pleased to vouchsafe an answer that the estate has not been valued. Now, two months have rolled on, and I ask:— Has the estate been valued since? The interpellation has not enlightened

LIBRARY ARCHIVES Kerala Legislative Assembly

us further in the matter. The Government, if it had already committed a mistake, ought gracefully to accept it. So I oppose this motion with all the vehemence I can command.

Mr. V. K. Kochunni Menon.—I also oppose the motion but not on the ground that this is to be made use of in the case of this particular estate. If these provisions are necessary for the proper working of the Court of Wards, certainly, I would have supported it. But, as the Member for Vyttila said, there are ample provisions in the Civil Procedure Code which enabled the Court of Wards to avoid the inconveniences sought to be rendered by the Bill, if they can satisfy the court that there is a fair chance of discharging these debts through the Court of Wards. There is, therefore, no necessity for depriving the creditors of their rights in the Civil Courts; and the parties are not likely to have as much confidence in the Executive as in the Civil Courts. On that ground alone, I oppose the motion.

Dr. A. R. Menon.—Will you be able to get any control of the estate within the jurisdiction of the Travancore Government? I am addressing an enquiry to the Government Advocate.

Mr. K. Achyuta Menon.—No. We are taking action to get a power of attorney to manage the properties in Travancore.

Dr. A. R. Menon.—Is there a similar provision in Travancore?

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—In British India there is. In Travancore I do not know.

Dr. A. R. Menon.—What I mean to say is: Suppose this estate has some portion of the property in Travancore, and there is a creditor in Travancore to whom money is due. Suppose he files his suit in one of the Travancore courts.

President.—We cannot make use of this Regulation for our purposes in Travancore. It won't help us for that purpose.

Dr. A. R. Menon—This will have force only, as far as Cochin territory is concerned. This gentleman plays ducks and drakes with his property in Travancore territory. Can we restrain him?

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—When he gives us the power of attorney, he ceases to be a proprietor there

He cannot do anything afterwards. It will be managed just as the Zamorin's estate is managed. The Zamorin has extensive properties in Cochin. These estates are not managed by our Court of Wards, but by the British Court of Wards, under the authority granted by the Zamorin to the British Court of Wards by a power of attorney.

LIBRARY ARCHIVES Kerala Legislative Assembly

Dr. A. R. Menon.—Supposing you take possession of his property, and that he is not agreeable to it?

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—He must be made agreeable to it.

President.—Is it in our control to take effective action in Travancore courts, if it is cancelled? This is what Dr. A. R. Menon wants to know.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—If it is cancelled, then, it is a question of law.

Mr. A. B. Salem.—He can withdraw that power of attorney at any moment.

Mr. M. Krishna Menon.—Is he in possession of the properties in Travancore?

President.—Once he gives the power of attorney, the Court of Wards steps into his place.

Dr. A. R. Menon.—Will they be able to take possession of the property, if he is not agreeable to it?

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—He must agree and then surrender. Otherwise, we cannot do anything.

Dr. A. R. Menon.—Suppose he refuses. It won't have any effect?

President.—This Regulation will apply only in the State.

Dr. A. R. Menon.—If the man is wilful, he can play the game of borrowing the money without the intention of paying back. At the same time, you will step in, and assure his debtors that you have no control over the man in Travancore.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—Unless he cancels the power of attorney, he cannot play ducks and drakes with his money.

President.—By reason of the *Mukthiyar*, the Court of Wards enjoy an interest in his estates.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—We are more concerned with Cochin properties.

Dr. A. R. Menon.—While you are concerned with Cochin properties, you have no control over the Travancore and British properties, even after passing the Regulation. Suppose the man does not give the power of attorney, so far as the properties in those parts are concerned?

President.—Then, we cannot proceed against those properties.

Dr. A. R. Menon.—You can proceed on the properties within the State. Your decision will affect the creditors, so far as the properties in the State are concerned. He is scot-free to do anything he likes with the properties in Travancore.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. A. B. Salem.—May I know for information whether the creditors, since the last session, have petitioned the Government asking them that they should not extend the Court of Wards Regulation protection to this particular estate?

President.—No petition has been received.

Mr. A. B. Salem.—My reason to ask this was to make a few remarks. I find here, Sir, that Members are placed on the horns of a dilemma. Here is a Regulation brought forward as the Court of Wards Amendment Regulation to give ample powers to the Government to protect any estate that they take under the Cochin Court of Wards protection. We have been swayed from that path into a by-path. Especially, because the Government of Cochin has committed a blunder in extending the protection unto an unworthy person, this Regulation itself should not be passed, whatever be the merits of the Regulation. This is the position in which we are placed here. We are face to face with a good piece of legislation, and we are face to face with the application of that Regulation immediately to a person who does not commend himself to the Members of the opposition, as one worthy of protection. That is the position. I think this House should not allow the issue to be clouded in any manner whatsoever. Whether the House is for the Regulation or not is the main question in this House. Members of the opposition have stated that they are absolutely unwilling to pass this Regulation, as the benefit will go to the estate now under the immediate protection of the Court of Wards. If that is so, I submit the best course would be to move a resolution in this House, if the President would allow the rules to be suspended as regards notice, and say that the benefit of the Regulation that we pass now shall not be extended to this particular estate. This is the solution of the thing. I am, therefore, unable to make up my mind against the Bill At the same time, I do not know whether I am doing the right thing in giving my vote for such a Bill, when it shall be extended to this particular case. I think the Government has blundered and blundered. This is not the only instance in which they have blundered. Because we see from the answers to questions—from 234 to 239—answered to-day ample evidence to show that no adequate consideration has been bestowed upon this question. You say you do not know the exact value of the property which you have taken under protection. Information has been supplied to the knowledge of the Government that there were properties in Travancore and British India. It was also brought out now by the Hon'ble Revenue Member that he knew the practice of taking powers of attorney in the arrangement of the Court of

LIBRARY ARCHIVES Kerala Legislative Assembly

Wards, when a part of the estate lay outside the jurisdiction of the Court of Wards. Why, I ask, the Government of Cochin has not thought it fit to have taken these powers of attorney, before they undertook the management as the Court of Wards did? Why, I ask, since the last session up to this date, no power of attorney or any surrender of property in Travancore and British India were not made to the Court of Wards by the proprietor to whom protection has been given.

President.—An attempt is being made.

Mr. A. B. Salem.—That should have been told openly. The temper of the House is against passing the Regulation, because you are constrained to ask the House to agree to this legislation at this juncture. That should have been the right course for any Government to pursue. I do not wish to give any credit to the Government. That is my position, unless we get an assurance from the official side that the benefit of this Regulation will be extended in this case only under circumstances whereby every safeguard will be made to protect the interests of the creditors and to pay them as quickly as possible, or that the benefit of this Regulation will not be made available for this estate. If that assurance is coming forward, I am prepared to vote for the Bill. If it is not coming forward, I would rather see that this Bill is adjourned a little more. That is my position, Sir.

Mr. N. Padmanabha Menon.—May I know whether any attempt was made to get this power of attorney?

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—In fact, a draft was prepared by the Estate Vakil, which is being checked by the Government Advocate.

Mr. N. Padmanabha Menon.—Is the person concerned amenable to the power of attorney?

President.—No assurance has been obtained from him.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—The proprietor has agreed to execute powers of attorney, and he has now given a list of his properties. A petition has been received from another man—a relation of the proprietor whose name I do not wish to mention—saying that the list is not quite correct, and that, if he is placed on special duty and some appointment is given to him, he will furnish a correct list. This man has been sending petitions against the proprietor Mr. Sankaranainan Pillai, and he has now come forward with another petition stating that the list of Travancore and British properties given to the Court of Wards is not quite correct, and that, if he is given an appointment in the Court of Wards, he will visit Travancore and British Malabar, and give us correct lists,

LIBRARY ARCHIVES Kerala Legislative Assembly

Thus, instead of being a complainant against Mr Sankaranainan Pillai he has now become an applicant for an appointment.

Mr. M. K. Raman.—I should like to know whether this amending Bill is introduced to be passed only for the purposes of this particular estate. It would appear from the nature of the discussion that this amending Bill is intended only for this estate. So I would submit that, if, as a matter of fact, the Government has assumed the management wrongly, of course, the Government ought to give it up. There cannot be anything standing in the way of passing this amendment, if it is otherwise salutary.

President.—It is open to you either to support the motion or to introduce the Bill or to oppose it. This legislation should be considered on its own merits, without reference to a particular case.

Mr. M. K. Raman.—From the nature of the answers given to this House, I should think that the Government has not acted with proper caution in taking up the management of this particular estate. What I would submit is that the Government ought to give it up. There should not be in fact any one standing in the way of passing this Amendment Regulation, because that does not concern this particular question alone.

President. So I shall take it that you support the amending Bill that is placed before this House.

Mr. M. K. Raman.—I would support the amending Bill that is placed before the House, although if I am asked my opinion as to whether the management of this particular estate was taken up properly, I would certainly say it was not.

President.—That is not the point at issue.

Mr. N. Padmanabha Menon.—Will you allow me to give my explanation regarding the position? The principal object with which this Bill was rushed to this stage was to make it applicable to this particular estate.

Rao Sahib Mr. T. V Kasturi Ranga Ayyar.—No.

Mr. N. Padmanabha Menon.—Sir, it is certain that the primary object of this Bill was to benefit this estate?

President.—One time or another, it is necessary.

Mr. N. Padmanabha Menon.—The assumption of the management of this estate has been the immediate reason for the introduction of this amending Bill and for rushing it through. We want the Amendment Bill to come up in the ordinary course of things.

President.—We want to make use of this Regulation for Mr. Sankaran inan Pillai's estate.

Mr. N. Padmanabha Menon.—We do not want the emergency clause to be invoked in this particular case; let

LIBRARY ARCHIVES Kerala Legislative Assembly

the Bill come up in the ordinary course. You were asked to suspend the 15 days' notice and you were pleased to suspend that.

President.—I did not suspend. Now, more than 15 days have elapsed.

Mr. N. Padmanabha Menon.—The Government want to rush this Bill. There is absolutely no urgency about the matter, and that is the particular object with which we have opposed this Bill. If an assurance is forthcoming, that, if an amendment is moved that this Bill will not be applicable to the present estate under the Court of Wards, that amendment will be acceptable to the Government, we have no objection to support the Bill.

President.—Such an assurance cannot be held out. It must be passed into law, and must be applicable to all estates, whether it is Mr. Sankaranainan Pillai's or otherwise.

Mr. A. B. Salem.—Will you allow us to move a resolution in the matter?

President.—There is no scope for a resolution now. We are now considering a motion regarding a Bill.

Dr. A. R. Menon.—We await the learned Advocate's opinion in this matter, and we will listen to his arguments.

Mr. K. Achyuta Menon.—I am entitled to make a reply hence.

Dr. A. R. Menon.—We cannot carry on this discussion, unless we know the opinion of the Members on the other side.

President.—He has to meet the objections raised by the other side. I won't stand in the way. But I cannot allow a speech to be made.

Mr. K. Achyuta Menon.—So far as I have been able to gather from the speeches made by Members, I find there is only one relevant objection, and that is it is not advisable to take away the powers of the Civil Courts. Regarding the other objections, I am sorry to say that they are beside the point and incorrect. With regard to the wisdom or the blunder that has been committed by the Government in taking up the management, I am really surprised to find very strong terms used in regard to the assumption of management. All the time Members have been forgetting that there is a minor, although they have been reminded that there is a minor involved in it. The Court of Wards has assumed management not only in the interests of Mr. Sankaranainan Pillai whose behaviour has been most objectionable but also in the interests of the minor. In doing so, Mr. Sankaranainan Pillai might also be benefited.

LIBRARY ARCHIVES Kerala Legislative Assembly

That is no reason for charging the Government of any serious blunder, if, at all, it is a blunder, in taking up the management.

Mr. A. B Salem.—May I know for information, Sir, whether the application, on behalf of the minor, was made by somebody else or whether that application was made by Mr. Sankaranainan Pillai himself.

President.—Mr. Sankaranainan Pillai has applied.

Mr. A. B. Salem.—That takes away his point. Mr. Sankaranainan Pillai and somebody else who is a minor are involved. Whether Mr. Sankaranainan Pillai comes forward with an excuse to get protection for himself,—that was the point I asked.

Mr. K. Achyuta Menon.—I am really very sorry that such an argument should be addressed before this House simply because it was a blackguard that brought to the notice of the Government that the estate was being mismanaged, and that the Government should take it up. By the fact that the motion to take up the estate of the minor coupled with the estate of Mr. Sankaranainan Pillai for management by the Court of Wards came from Mr. Sankaranainan Pillai himself, will the whole action of the Government become unjustifiable and objectionable, when we remember that the minor's estate has also been taken up. You will see that it is absolutely necessary, and it is only when the estates are involved, the Court of Wards should step in for keeping it on a sound basis, after the debts are cleared off. Of course, attempts ought to be made; not after ascertaining whether the Court of Wards will be successful or not. If there is a possibility or a fair probability of the Court of Wards' management being successful, my own individual opinion is that the Court of Wards ought to take up the management where the interests of the public are concerned. In this case, the estate being so very large, concerning several tenants and several creditors, the Court of Law may not be able to adjust all the matters so very thoroughly as the Court of Wards could do; because we know, when we go to our courts, that each creditor may be able to get one or two or half a dozen adjournments. But the Court of Wards would enable them to raise the necessary funds to discharge the debts. In this particular case, some Judges may not grant adjournments. There is no other remedy. We cannot go to an appellate court, because the sale is over. We can get the sale set aside for certain irregularities. Simply because an adjournment of the sale is refused, it is not correct to say that we get the same relief, if we go to a Civil Court. That is why the Government have thought it fit to come forward with this amendment, enabling the Court of Wards officer appointed in this behalf to discharge the debts, by collecting

LIBRARY ARCHIVES Kerala Legislative Assembly

all the outstandings and by selling property. Whether the sales are necessary and the sale based on the best possible price is, as I said before, the only relevant objection why the Civil Courts should be deprived of the powers? My answer is, certainly, better facilities would be given to the Court of Wards to realise as much as possible by the sale of the estate.

Mr. A. B. Salem.—May I know, for information, whether this minor has filed a suit in theCivil Court of Cochin, and whether it has come to the notice of the Court of Wards? I may be informed whether that information is correct.

President.—No information.

Mr. K. Achyuta Menon.—The Government may give up the management, but there is the legal objection to the suggestion. The Court of Wards cannot surrender the management at the present day. I am sorry to state that this is a matter on which the Court has to satisfy itself that it is practically impossible.

President.—The Diwan Peishkar has told us that the management would be given up, if the Court is satisfied that it is impracticable to liquidate the debts in a reasonable time.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.—All Members think 10 months to be a sufficiently long time though the Court of Wards thinks otherwise. It is too short a time with regard to such a big estate with a large number of creditors.

Mr. K. Achyuta Menon.—The only objection is with regard to the powers of the Civil Courts being taken away and vested in the executive officers. Whether the officer appointed by the Government will mismanage or not, I have nothing to say. I presume, with the capacity and honesty of the officers, that, certainly, this arrangement by the Government better serves the interests of the estate and the creditors.

The Council adjourned for lunch at 2 p. m. It re-assembled at 3 p. m. under the presidentship of M. R. Ry. V. K. Kochunni Menon Avl., B. A. & B. L., Member for Ernakulam and Deputy President.

President.—Before we resume our work, I have to make one statement. You know I am new to the business. Mine is, no doubt, an important function, and I request you to extend to me the same sort of indulgence as you have been doing to the President.

Congratulations to the Deputy President.

Mr. A. Sankara Puduval.—In the conduct of the normal business of this Council, this is the first occasion on which you, as the Deputy President, selected from among the non-

LIBRARY ARCHIVES Kerala Legislative Assembly